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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,414	04/06/2001	Oumar Nabe	17207-00009	5145
7590 John S. Beulick Armstrong Teasdale LLP One Metropolitan Sq., Suite 2600 St. Louis, MO 63102			EXAMINER FELTEN, DANIEL S	
			ART UNIT 3696	PAPER NUMBER
			MAIL DATE 08/06/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/828,414

**Applicant(s)**

NABE ET AL.

**Examiner**

DANIEL S. FELTEN

**Art Unit**

3696

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 and 31-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 & 31-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Receipt of the Request for Continued Examination (RCE) filed April 15, 2008 is acknowledged.
2. Claims 1-64 were pending in the application. Claims 1-21 and 31-42 were elected with traverse are presented to be examined upon their merits.
3. This office action responds to applicants concerns regarding the restriction requirement and other issues regarding the claims mentioned in the April 15, 2008 remarks. Thus the Applicant's argument regarding the incompleteness of the previous Office Action dated 11/29/2007 is persuasive. The Finality of the 11/29/2007 is hereby withdrawn.

### ***Election/Restrictions***

Applicant's election with traverse of claims 1-21 and 31-42 in the reply filed on August 22, 2007 is acknowledged. The traversal is on the ground(s) that the inventions set out in Groups I, II and III are related and would not be a serious burden on the Examiner. This is not found persuasive because of the reasons presented in the restriction requirement submitted on July 24, 2007 being distinct for the reasons given in the same, and maintaining that there would be a serious search and examination burden on the Examiner based upon the amendments submitted April 4, 2007 if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;

- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Thus, the requirement is still deemed proper and is therefore made FINAL.

***Regarding the New Grounds of Rejection Being Asserted***

4. The Examiner fails to understand the Applicant's position. The Applicant's originally submitted claims were presented 4/06/2001. The first Office Action was presented using Walter et al (US 6,334,110) on 10/02/2006. An amendment was filed 02/28/2007 making significant changes to the claim language. For at least the reasons cited above, a Restriction/Election requirement was submitted to the applicant on 07/24/2007. The Applicant's election of Group I and response with traverse was received August 22, 2007. Based upon the Applicant's election of Group I (claims 1-21 and 31-42) of the amended claims that were presented 02/28/2007, the Examiner provided a new reference, Jones III et al (US 6,925,441) in the 11/29/2007 Office Action, to cover the newly presented claim language submitted by the 02/28/2007 amendment.

The Applicant now asserts that because the Applicant did not amend any claim during the Applicant's election of Group I, that the Examiner erred in the Finality of the 11/29/2007 Office Action because of the fact that "no action taken by the Applicant could have prompted the citation of newly cited reference in the present Office Action [office action dated 11/29/2007], and the citation of a newly cited reference precludes the finality of the present office action." The Examiner disagrees and would like the Applicant to re-read the MPEP 706(a) which states,

Under the present practice, second *or any subsequent actions on the merits shall be final*, (emphasis added) except where the examiner that is neither necessitated by the applicant's amendment of claims nor based on information submitted in an information disclosure statement during the period set forth in 37 C.F.R. § 1.97(c)

It is being maintained that the Applicant's amendment submitted 2/28/2007 necessitated the subsequent new grounds of rejection of Jones III et al submitted in the 11/29/2007 Office Action. Thus the Applicant's argument that the Finality of the 11/29/2007 office action should be withdrawn based on the argument that the Applicant's Election/Response did not necessitate a new grounds of rejection, is not persuasive.

However, as stated above, Finality is withdrawn because of the incompleteness of the previous action.

#### ***Response to Arguments***

5. The Applicant's arguments regarding Jones have been considered, but are not fully persuasive.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-21 and 31-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones III et al (US 6,925,441)

***Re Claims 1, 11, 43, 49, 50 and 51:*** A method for managing customer relationships between customers, a dealer, and a lender, wherein the dealer offers products for sale to the customers and

the lender is engaged in a business of providing financing, said method comprising the steps of: providing a database of customer information, customer spending data, and customer financial data for each customer stored within the database, wherein the financial data includes at least one of income, loan and credit payment history, and loan and credit overpayments for each customer (see Jones Abstract, column 3, lines 44 to column 5, line 37);

predicting future customer behavior for each customer stored in the database based on the customer information, customer spending data, and customer financial data (see column 6, lines 28-38);

constructing customer campaigns with personalized offers for the targeted customers (see Abstract, column 6, line 66 to column 7, line 14); and

providing financing by the lender for the dealer as part of the offer to the targeted customers, wherein the lender provides financing to the targeted customers that purchase a product from the dealer as a result of the customer campaigns (see at least column.

generating a list of targeted customers based on the calculated expected income and the calculated timing of purchase, wherein a targeted customer is a customer designated for receiving from the dealer a personalized offer for sale of a product(see column 9, line 56 to column 10, line 19);

Jones fails to disclose calculating for each customer at least one of an expected income from the customer for the dealer and a timing of purchase of a product from the dealer based on the predicted future customer behavior. However, Jones implies from gathering information about the spending habits of any given consumer, that Jones's content providers would have sought to know how much money the content provider would stand to make once a consumer accepted a particular offer (see column 6, lines 54-57). For example, the scoring of automobile insurance offers would go to the consumer who is most likely to respond and be able to pay for the service (see column 9, line 56 to column 10, line 19).

Moreover it is implied in Jones that spending behavior takes place a various times based upon location and times to buy specific products. For example, consumer that resides in Hawaii would more than likely not be interested in purchasing a snow blower. Or most people may not be interested in purchasing a grill. Thus Jones would not make certain offers to customers based upon these factors.

**Re claim 3:** further comprising the step of rank ordering customer accounts that have had only one occurrence of spending activity, based upon a probability of there ever being future spending activity . (see Jones Abstract, column 3, lines 44 to column 5, line 37).

**Re claim 5,** comprising the step of rank ordering customer accounts without spending activity over a predetermined unit of time (see Jones Abstract, column 3, lines 44 to column 5, line 37)

**Re claims 6, 16, 23, 31, 32, 33,35, 36, 37 and 44.** wherein said step of predicting future customer behavior further comprises the steps of clustering groups of customers using key performance indicators . (see Jones Abstract, column 3, lines 44 to column 5, line 37)

**Re claims 7, 45 and 53:** wherein said step of predicting future customer behavior further comprises the step of predicting future spending of customers in the customer information database within a specified time period . (see Jones Abstract, column 3, lines 44 to column 5, line 37)

**Re claim 8, 18 and 54:** wherein said step of constructing customer campaigns further comprises the step of determining a customer targeting list based on at least one of likelihood of response, an estimated overall response rate, and profitability margin . (see Jones Abstract, column 3, lines 44 to column 5, line 37)



***Re claim 9, 19 and 58:*** wherein said step of constructing customer campaigns further comprises the step of identifying product purchase patterns and indicating trends using key variables (see Jones Abstract, column 3, lines 44 to column 5, line 37)

***Re claims 10, 20, 42 and 55:*** wherein said step of constructing customer campaigns further comprises the step of exposing the customer to new spending opportunities by segmenting previous spending patterns . (see Jones Abstract, column 3, lines 44 to column 5, line 37)

***Re claim 13:*** server is configured to rank order customer accounts that have had only one occurrence of spending activity, based upon a probability of there ever being future spending activity. (see Jones Abstract, column 3, lines 44 to column 5, line 37)

***Re claims 2, 4 and 12, 14:*** Hit and Run and Dormancy are conventional mathematical models that are used to perform analysis on a data set. Jones uses customer analysis that is based upon a model. Therefore, Official Notice is taken of the Hit and Run and Dormancy models has being obvious extensions to customer analysis to provide market campaigns that can be targeted to specific customers.

***Re claim 15:*** wherein said server is configured to rank order customer accounts without spending activity over a predetermined unit of time. (see Jones Abstract, column 3, lines 44 to column 5, line 37)

16. (original) A system according to Claim 11 wherein said server configured to cluster groups of customers using key performance indicators.

17. (original) A system according to Claim 11 wherein said server configured to predict future spending of customers within a specified time period.

18. (original) A system according to Claim 11 wherein said server configured to determine a customer targeting list based on at least one of likelihood of response, an estimated overall response rate and profitability margin.

19. (original) A system according to Claim 11 wherein said server configured to identify product purchase patterns and indicate trends using key variables.

20. (original) A system according to Claim 11 wherein said server configured to present to customers new spending opportunities by segmenting previous spending patterns.

21. (original) A system according to Claim 11 wherein said server configured to gather customer information through at least one of point of sale, home shopping, E-commerce, credit card information, bank card information, world wide web and digital television.

34. (original) A method according to Claim 31 wherein said step of requesting a prediction of future customer behavior further comprises the step of requesting a prediction of an optimal targeting list based upon at least one of a likelihood of response, an estimated overall response rate, and profitability margin.

36. (original) Apparatus according to Claim 35 wherein said means for predicting future customer behavior comprises means for examining key performance indicators.

37. (original) Apparatus according to Claim 35 wherein said means for predicting future customer behavior comprises means for clustering groups of customers using the key performance indicators.

38. (original) Apparatus according to Claim 35 wherein said means for predicting future customer behavior comprises means for identifying hit and run customers.

39. (original) Apparatus according to Claim 35 wherein said means for predicting future customer behavior comprises means for identifying dormant customers.

40. (original) Apparatus according to Claim 35 wherein said means for predicting future customer behavior comprises means for rank ordering customer accounts according to spending activity.

41. (original) Apparatus according to Claim 35 wherein said means for constructing customer campaigns comprises means for determining a customer targeting list based on at least one of likelihood of response, an estimated overall response rate, and profitability margin.

42. (original) Apparatus according to Claim 35 wherein said means for constructing customer campaigns comprises means for segmenting previous spending patterns to present new spending opportunities to customers.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL S. FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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